

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the
Accusation Against:

Donald D. Miller, M.D.
Certificate # A-18863

Respondent.

No. D-3602

DECISION

The attached Stipulation is hereby adopted by the
Division of Medical Quality of the Board of Medical Quality
Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on _____

August 13, 1987.

IT IS SO ORDERED July 14, 1987.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE



JOHN W. SIMMONS
Secretary-Treasurer
Division of Medical Quality

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 JANA L. TUTON
Deputy Attorney General
3 1515 K Street, Suite 511
P. O. Box 944255
4 Sacramento, California 94244-2550
Telephone: (916) 324-5342

5 Attorneys for Complainant
6
7

8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation)	No. D-3602
Against:)	
)	
12 DONALD D. MILLER, M.D.)	<u>STIPULATION</u>
13 2929 Sunnyfield Drive)	
Merced, California 95340)	
)	
14 Physician's and Surgeon's)	
15 Certificate No. A-18863)	
)	
16 Respondent.)	
<hr/>		

17
18 Respondent Donald D. Miller, M.D., through his counsel
19 Dennis M. Warren, and the Board of Medical Quality Assurance,
20 Division of Medical Quality, through its counsel Deputy Attorney
21 General Jana L. Tuton, do hereby enter into the following
22 stipulation:

23 1. Respondent Donald D. Miller, M.D. hereby
24 acknowledges receipt of Accusation No. D-3602, Statement to
25 Respondent, and copies of the Notice of Defense form.

26 2. Respondent has retained Dennis M. Warren to be his
27 attorney in Case No. D-3602 and has counseled with Mr. Warren

1 concerning the charges and allegations contained in Accusation
2 No. D-3602 and the effect of this stipulation.

3 3. Respondent is fully aware of his right to a
4 hearing on the charges and allegations contained in Accusation
5 No. D-3602, his right to reconsideration, appeal, and any and
6 all rights which may be accorded pursuant to the California
7 Administrative Procedure Act and the laws of the State of
8 California.

9 4. Respondent hereby freely and voluntarily waives
10 his right to a hearing, reconsideration, appeal and any and all
11 other rights which may be accorded by the California
12 Administrative Procedure Act and the laws of the State of
13 California with regard to Accusation No. D-3602.

14 5. For purposes of this proceeding only, respondent
15 admits that he is subject to disciplinary action for violation
16 of Business and Professions Code section 2234, subdivision (e)
17 in that:

18 A. Respondent committed lewd and lascivious acts upon
19 a minor child, Kenneth B., from on or about September 1983 until
20 on or about April 1984.

21 B. Respondent committed lewd and lascivious acts upon
22 a minor child, Thomas M., from on or about March 1983 until on
23 or about June 1983.

24 C. Respondent committed lewd and lascivious acts upon
25 a minor child, Jeffrey W., from on or about February 1982 until
26 on or about May 1983.

27

1 Based on the foregoing stipulation, the Division of
2 Medical Quality, Board of Medical Quality Assurance, may issue
3 the following order:

4 A. The license to practice medicine and surgery in
5 the State of California heretofore issued to respondent is
6 hereby revoked; provided, however, that execution of this order
7 of revocation is stayed and respondent is placed on probation
8 for five (5) years upon the following terms and conditions:

9 1. Within 30 days of the effective date of this
10 decision, respondent shall undergo a psychiatric evaluation by a
11 Division-appointed psychiatrist who shall furnish a psychiatric
12 report to the Division or its designee.

13 If respondent is required by the Division or its
14 designee to undergo psychiatric treatment, respondent shall
15 within 30 days of the requirement notice submit to the Division
16 for its prior approval the name and qualifications of a
17 psychiatrist or psychologist of respondent's choice. Upon
18 approval of the treating psychiatrist or psychologist,
19 respondent shall undergo and continue psychiatric treatment
20 until further notice from the Division.

21 2. Within 90 days of the effective date of this
22 decision, and on an annual basis thereafter, respondent shall
23 submit to the Division for its prior approval an educational
24 program or course related to child abuse, medical ethics and
25 psychiatry, which shall not be less than 40 hours the first year
26 of probation and 20 hours for each year thereafter. This
27 program shall be in addition to the Continuing Medical Education

1 requirements for re-licensure. During the first year of
2 probation, respondent shall provide proof of attendance for 65
3 hours of continuing medical education of which 40 hours were in
4 satisfaction of this condition and were approved in advance by
5 the Division.

6 3. During probation, respondent shall have a third
7 party present while examining or treating male patients under
8 the age of 16.

9 4. Respondent shall obey all federal, state and local
10 laws, and all rules governing the practice of medicine in
11 California.

12 5. Respondent shall submit quarterly declarations
13 under penalty of perjury on forms provided by the Division,
14 stating whether there has been compliance with all the
15 conditions of probation.

16 6. Respondent shall comply with the Division's
17 probation surveillance program.

18 7. Respondent shall appear in person for interviews
19 with the Division's medical consultant upon request at various
20 intervals and with reasonable notice.

21 8. The period of probation shall not run during the
22 time respondent is residing or practicing outside the
23 jurisdiction of California. If, during probation, respondent
24 moves out of California to reside or practice elsewhere,
25 respondent is required to immediately notify the Division in
26 writing of the date of departure, and the date of return, if
27 any.

1 9. Upon successful completion of probation,
2 respondent's certificate will be fully restored. Respondent may
3 petition the Board for modification of probation after a period
4 of not less than one year has elapsed from the effective date of
5 this decision.

6 10. If respondent violates probation in any respect,
7 the Division after giving respondent notice and the opportunity
8 to be heard, may revoke probation and impose the revocation that
9 was stayed. If an accusation or petition to revoke probation is
10 filed against respondent during probation, the Division shall
11 have continuing jurisdiction until the matter is final, and the
12 period of probation shall be extended until the matter is final.

13 It is agreed that the terms set forth herein shall be
14 null and void and not binding upon the parties hereto unless
15 approved by the Board of Medical Quality Assurance of the State
16 of California.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

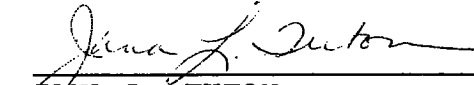
26 ///

27 ///

1 DATED:

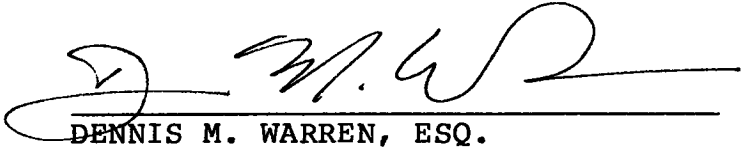
May 14, 1987

2 JOHN K. VAN DE KAMP, Attorney General
of the State of California
3 JANA L. TUTON
Deputy Attorney General

4 
5 JANA L. TUTON
6 Deputy Attorney General

7 Attorneys for Complainant

8 DATED: May 8, 1987

9 
10 DENNIS M. WARREN, ESQ.

11 Attorney for Respondent

12 DATED: May 8, 1987

13 
14 DONALD D. MILLER, M.D.

15 Respondent

16
17
18
19
20
21
22
23
24
25
26 03573110-
27 SA86AD1939

1 JOHN K. VAN DE KAMP, Attorney General
2 of the State of California
3 JANA L. TUTON
4 Deputy Attorney General
5 1515 K Street, Suite 511
6 P. O. Box 944255
7 Sacramento, California 94244-2550
8 Telephone: (916) 324-5342

9 Attorneys for Complainant

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	No. D-3602
Against:)	
)	
DONALD D. MILLER, M.D.)	<u>ACCUSATION</u>
2929 Sunnyfield Drive)	
Merced, California 95340)	
)	
Certificate No. A-18863)	
)	
)	
Respondent.)	

17 Kenneth Wagstaff, the complainant herein, alleges as
18 follows:

19 1. He is the Executive Director of the Board of Medical
20 Quality Assurance of the State of California (hereinafter the
21 "Board") and makes these allegations in his official capacity
22 as such and not otherwise.

23 2. On or about September 11, 1959, respondent Donald
24 D. Miller, M.D. (hereinafter "respondent") was issued physician's
25 and surgeon's certificate number A-18863 under the laws of the
26 State of California. Said certificate is presently in full
27 force and effect.

1 3. Section 2234 of the Business and Professions Code
2 (hereinafter the "Code") provides that the Division of Medical
3 Quality of the Board of Medical Quality Assurance shall take
4 action against a holder of a physician's and surgeon's certificate
5 who is guilty of unprofessional conduct. Section 2234, sub-
6 division (e) provides that the commission of any act involving
7 dishonesty or corruption which is substantially related to the
8 qualifications, functions, or duties of a physician and surgeon.

9 4. Respondent Miller is subject to disciplinary action
10 pursuant to section 2234, subdivision (e) of the Code in that he
11 has committed acts involving dishonesty or corruption which are
12 substantially related to the qualifications, functions, or duties
13 of a physician and surgeon as more particularly alleged herein-
14 after:

15 A. Respondent committed lewd and lascivious acts upon
16 a minor child, Kenneth B., from on or about November 1982 until
17 on or about April 1984.

18 B. Respondent committed lewd and lascivious acts upon
19 a minor child, Thomas M., from on or about March 1983 until on
20 or about June 1983.

21 C. Respondent committed lewd and lascivious acts upon
22 a minor child, Jeffrey W., from on or about June 1980 until on
23 or about May 1983.

24 ///

25 ///

26 ///

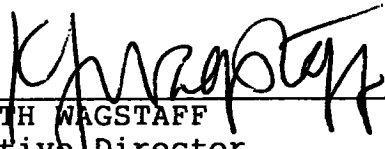
27 ///

1 WHEREFORE, complainant prays that the Division of
2 Medical Quality hold a hearing on the matters alleged herein
3 and following said hearing issue a decision:

4 1. Suspending or revoking the physician's and
5 surgeon's certificate issued to Donald D. Miller, M.D.; and

6 2. Taking such other and further action as may be
7 proper.

8 DATED: January 14, 1987

9
10 
11 KENNETH WAGSTAFF
12 Executive Director
13 Board of Medical Quality Assurance
14 Department of Consumer Affairs
15 State of California

16
17
18
19
20
21
22
23
24
25
26 Complainant
27

03573110-
SA86AD1939